

GdH & Debt Mgt. CR

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554
JUN 15 1999

DOCKET FILE COPY ORIGINAL
86-285

OFFICE OF
MANAGING DIRECTOR

Mr. Theodore D. Lesko
73 Chestnut Avenue
Rochelle Park, New Jersey 07662

Re: Fee Control #9201098675132001

Dear Mr. Lesko:

This will respond to your request for refund of the filing fees in connection with Multiple Address System ("MAS") applications that were filed by Romulus Engineering ("Romulus") on your behalf as an individual and as a general partner in New Age General Partners ("New Age").

You represent that 30 MAS applications were filed in your name alone, and that 100 MAS applications were filed in the name of New Age, in which you were a 10% general partner. You have provided copies of all 130 MAS applications, as well as a copy of the executed New Age Partnership Agreement ("Agreement"). According to provision 2.1 of the Agreement, each general partner paid a "pro rata portion of the FCC filing fees." Because Romulus, the entity that prepared all 130 MAS applications in which you had an interest, is no longer in business, you are seeking refund of the full and the pro rata portion of filing fees you paid as an individual and as a New Age general partner, respectively.

Section 1.1113(a)(4) of the Commission's rules, 47 C.F. R. Section 1.1113(a)(4), provides that an applicant will be eligible for a fee refund where a new rule, law or treaty or renders the pending application useless. In adopting this rule, the Commission stated that the section was intended to apply only in those "rare instances" where a statutory or regulatory change would nullify a pending application. See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Reconciliation Act of 1985, 2 FCC Rcd 947, 950 (1987), reconsidered in part, 3 FCC Rcd 5987, 5988 (1988).

The Balanced Budget Act of 1997, Pub. Law No. 105-33, Title III, 111 Statute 251 (1997), terminated the Commission's authority to issue MAS licenses by random selection (i.e., by lottery). The pending MAS applications, filed pursuant to lottery rules, could not be processed and thus were dismissed. See Amendment of the Commission's Rules Regarding Multiple Address Systems, 13 FCC Rcd 17954 (1998). Under the circumstances, the Managing Director has determined that applicants for MAS licenses

Mr. Lesko

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are entitled to a refund of their filing fees under Section 1.1113(a)(4) of the Commission's rules. See Refund of Application Fees for 932-932.5/941-941.5 MHZ Multiple Address System Applications, (October 1, 1998)(WESTLAW library)("Public Notice").

The Public Notice stated that:

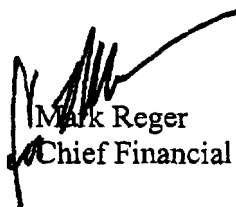
In all cases, the refund will be mailed to the maker of the original check. If that is unacceptable, proper justification must be provided. If available, applicants may wish to include proof of payment in order to further expedite the refund (emphasis added).

Given that you have stated in your letter of April 11, 1999, that the maker of the check, Romulus, has gone out of business, and that you have provided proof of part (10%) ownership, we find proper justification has been demonstrated, and we will mail your portion of the filing fee directly to you.

Based on the foregoing, your request for refund is granted. You are entitled to a refund of \$6,200.00 (\$1,550, the 10% pro rata portion of filing fees you paid as a New Age general partner; \$4,650.00, the filing fees you paid as an individual applicant). A check has already been mailed to you for \$4,650.00 for filing fees you paid as an individual applicant.

A check made payable to you for the remaining \$1,550.00, 10% of the dissolved partnership, will be sent to you at the earliest practicable time. If you have any questions concerning this refund, please contact the Credit and Debt Management Center at (202) 418-1995.

Sincerely,


Mark Reger
Chief Financial Officer

April 11, 1999

Ms. Claudette Pryde
FCC
445 12 Street, SW
Washington, DC 20554

Dear Ms. Pryde:

I received the refund for the individual MAS applications submitted in my name alone. Thanks again for your assistance.

As discussed we still have the 100 New Age Partnership applications to deal with. Let me give you some ideas on various options, as I see them.

#1. The applications were submitted in late 1991 or early 1992. Romulus Engineering, through whom the applications were submitted, has gone out of business. The ten partners in the New Age Partnership were combined by Romulus according to zip code. We never met and were never in touch. It will be difficult to get in touch with all 10 partners, some of whom have moved.

Therefore, the most equitable solution at this point in time would seem to be for the FCC to provide a refund to each partner who requests one. There were 100 applications submitted for the New Age Partnership, so each partner's share of the refund would be 10% of \$15,500 or \$1,550.

#2. A second less desirable option would be for the FCC to send the refund to the Designated Partner named on the Partnership applications. His name is Robert Geist and I have been in touch with him. However, Dr. Geist is an orthopedic surgeon with three offices and is extremely busy. I tried to contact him two weeks ago, and he still hasn't returned my call. Quite frankly, if he receives the refund, it may take forever to be distributed even if all the partners can be located.

#3. Another option assumes all partners can be located (perhaps through the Internet). This would be for all the partners to designate one partner to receive and distribute the refund. This could be handled by a letter from each partner, notarized if necessary. I believe I could get Dr. Geist to at least do this much and it would ensure that all partners would receive their refund in a timely manner.

I hope this helps and will wait to hear from you. Let me know if the above options would be acceptable.

Regards,


Theodore D. Lesko (201)634-7339 (W); (201)843-0619 (H)

9201098675132001

March 9, 1999

Mr. Andrew Fishel
Managing Director
FCC
Attn.: Regina Dorsey
445 12th Street, SW
Washington, DC 20024

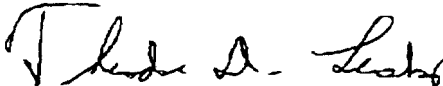
Dear Mr. Fishel:

I sent you a letter dated January 8th, 1999 (copy enclosed) regarding my request for a refund of MAS filing fees. In that letter, I indicated that I applied for the MAS lottery in 1992 through a company called Romulus Engineering who is now out of business. Thirty (30) applications were submitted in my name alone and one-hundred (100) applications were submitted in the name of New Age General Partners, of which I was a 10% partner. I enclosed copies of all applications, a copy of the partnership agreement and a list of the partners.

I am now enclosing a copy of the Engineering Services Agreement with Romulus which indicates on page 4, Exhibit A that the amount I paid to Romulus of \$15,000 includes filing fees to the FCC of \$6,200 representing the 30 individual applications and 10% of the 100 applications or effectively 40 applications.

I hope this will expedite the refund process.

Regards,



Theodore D. Lesko

73 Chestnut Avenue
Rochelle Park, NJ 07662
201-634-7339, day
201-843-0619, night

January 8, 1999

Mr. Andrew Fishel
Managing Director
FCC
Attn.: Regina Dorsey
445 12th Street, SW
Washington, DC 20024

Dear Mr. Fishel:

I am writing you at the suggestion of Claudette Pryce (spelling?) in your office.

I am applying for a refund of the filing fees submitted with applications for the MAS government lottery in 1992. My situation is somewhat complicated, however, in that the applications were filed through a company called Romulus Engineering (MAS) Inc. located at that time in San Mateo, CA. Romulus was also involved in the cellular and PCS lotteries and closed its doors, after being sued in connection with the PCS lottery. Its principal was a man named Quentin Breen. Romulus' role, for which it charged a fee, was to handle all the paperwork and engineering for the lotteries including preparing and submitting the applications. I have enclosed a copy of my agreement with Romulus.

Romulus submitted thirty (30) applications in my name alone, copies of which are enclosed. It also submitted one hundred (100) applications in the name of the New Age General Partners, which included myself and nine (9) other individuals, living in the same approximate geographical area, formed by Romulus in an effort to increase our odds of winning something. In this regard, I am enclosing a copy of the partnership agreement signed by the 10 partners, which lists the 100 areas applied for; a list of the names, addresses and telephone numbers of the 10 partners; and a copy of the 100 applications. Of all the partners listed, the only one with whom I have been in contact is Robert Geist, who you will note is listed on the Partnership applications as the contact person. I have occasionally tried to call some of the other partners, but often got a wrong number.

I am requesting a refund of the filing fees for the 30 applications submitted in my name alone and also for my 10% share of the 100 applications submitted in the name of the New Age General Partnership. This is equivalent to 40 applications at a filing fee of \$155 apiece or \$6,200.

If you have any questions, I can be reached at 201-634-7339 (day) and 201-843-0619 (evening). My mailing address is 73 Chestnut Avenue, Rochelle Park, NJ 07662-3823. Thank you for your help in this matter.

Regards,


Theodore D. Lesko

ENGINEERING SERVICES AGREEMENT

EJ

This Engineering Services Agreement ("Agreement") is entered into by and between Romulus Engineering (MAS) Inc., a Delaware corporation ("Romulus") and the undersigned applicant ("Applicant") with reference to the following facts:

- A. Romulus is a Delaware corporation, with its principal office located at 411 Borel Avenue, Suite 405, San Mateo, CA 94402.
- B. Romulus is engaged in the business of providing engineering for and preparation of Federal Communications Commission ("FCC") applications for Multiple Address Service ("MAS") authorizations in multiple markets ("Applications") in accordance with the Communications Act of 1934, as amended, and FCC rules, regulations, reports and orders.
- C. Applicant desires to purchase Applications to provide MAS services in certain Metropolitan Statistical Areas ("Markets") in the United States (see Exhibit A).
- D. The purpose of this Agreement is to retain Romulus to engineer and prepare for filing with the FCC Applications for MAS Licenses for the Applicant.

IN WITNESS WHEREOF, the parties hereto agree as follows:

- 1. **Romulus Scope of Work.** Romulus shall prepare Applications for Applicant for submission to the FCC, which applications will seek authority to provide MAS services in the designated MAS Markets in the United States under Part 94 of the FCC Rules. The applications shall include all information required by the FCC for filing applications including all engineering and engineering forms required under the FCC reports and orders, rules, regulations, technical memoranda, releases, and other guidelines issued by the FCC.
- 2. **Filing of Applications.** Romulus shall file completed Applications with the FCC during the filing window announced by the FCC, providing Applicant has provided all of the information, paid the relevant fees and executed all of the documents required to file the applications.
- 3. **Fees.** Romulus has set out in Exhibit A the various filing packages that it is offering together with the fees Romulus is charging for each package.
- 4. **FCC Filing Fees.** All FCC filing fees associated with the Applications are included in the prices charged by Romulus. FCC filing fees shall be deposited in the Romulus Trust account upon receipt from Applicant and shall be paid from the Romulus Trust Account to the FCC at the time Applications are filed with the FCC.
- 5. **Duties of Applicant.** Upon the request of Romulus, the Applicant shall provide all information necessary for completion of Applications within the time periods required by Romulus. In the case of any changes with respect to the information supplied by the applicant for inclusion in Applications, the Applicant will promptly supply Romulus with corrected information. The Applicant is responsible for providing to Romulus correct information. Romulus shall not be responsible for the preparation, completeness or accuracy of those portions of the Applications that are completed from inaccurate information received from the Applicant.
- 6. **Applicant Representations and Acknowledgements.** The Applicant understands and acknowledges the following in connection with the Applications to be prepared by Romulus:
 - a. Romulus makes neither representations nor warranties, express or implied, that the Applicant will be awarded any Construction Permits or Licenses ("Licenses") by the FCC, or that there will be a market for MAS once a license has been granted. Romulus is providing an engineering and

application preparation service only.

- b. Other applicants represented by Romulus or applications prepared by Romulus will be in competition with the Applicant in obtaining the Licenses applied for.
- c. The Applicant retains the sole and exclusive right to determine the manner in which the FCC Construction Permit or FCC License will be used. Applicant is solely responsible for marketing MAS services once a license is granted and facilities are constructed and in operation. The Applicant is not controlled, directly or indirectly, by Romulus or any other party.
- d. Applicant may contribute certain rights under this Agreement to a general partnership Applicant is forming with other applicants.
- e. Romulus has not rendered tax advice with respect to the deductibility or nondeductibility for Internal Revenue Service purposes of Applicant's costs to prepare and file the Applications.
- f. The FCC has made numerous changes in eligibility of Applicants and licensing procedures in the past and has the authority to do the same in the future. Future changes could substantially alter the value of the Applications prepared by Romulus.
- g. The Applicant has entered into this contract for the preparation of Applications with the sincere intent that, if successful in the License process, whether in whole or in part, the applicant intends to build and operate or have built and operated by a qualified entity, MAS systems in the markets for which licenses have been awarded.
- h. Other applicants represented by Romulus who are awarded licenses by the FCC will be in competition with Applicant in the operation of the MAS systems.
- i. Prior to acceptance of this Agreement, Romulus reserves the right to refuse to prepare any Application, for any Applicant, for any reason.
- j. The responsibility of Romulus under this Agreement will cease upon the delivery to the FCC of completed Applications ready for filing with the FCC, along with the proper filing fees.
- k. Applicant acknowledges that all applications prepared by Romulus for Applicant pursuant to this Agreement are solely for use by Applicant. Applicant agrees to pay Twenty Five Thousand Dollars (\$25,000.00) to Romulus for each unauthorized use of each Application by Applicant. An example of unauthorized use is using an Application, or any part thereof, as a basis for preparing applications for other applicants.

7. **Non-Exclusive Service.** Romulus will provide the Application preparation services described herein to Applicant on a non-exclusive basis. Romulus shall have the right to provide similar services to other Romulus clients who wish to file MAS Applications and to file such Applications on their behalf or on behalf of the principals of Romulus.

8. **Limitation to Damages.** Romulus shall have no liability except for negligence or omissions in the preparation of the Application, in which case damages shall be limited to amendment of the Application or filing a replacement Application for another available MAS market. If the Application cannot be amended or a replacement application cannot be filed, then damages shall be limited exclusively to the amount of service fees for such application actually paid by the Applicant to Romulus. The warranty contained herein is in lieu of all other warranties, express or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose. The remedy provided herein shall be the exclusive remedy of Applicant and Applicant shall have no right to require any maintenance or to claim any damages against Romulus with respect to the services or products required under this Agreement, or arising out of such services, except those rights expressly set forth in this paragraph.

9. **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the parties and their heirs, successors, executors, legal representatives, and assigns.
10. **Entire Agreement.** This Agreement and any other documents signed contemporaneously herewith constitutes the entire Agreement between Romulus and the Applicant concerning the subject matter hereof and supersedes all prior agreements between the parties, including, but not limited to, any oral representation. The terms of this Agreement cannot be modified unless agreed to by both parties in writing.
11. **Applicable Law and Arbitration.** This Agreement shall be governed by, and construed according to the laws of the State of California. Any disputes under this Agreement shall be resolved by arbitration by the San Francisco office of the American Arbitration Association under its rules governing commercial disputes, and the parties agree to be bound by any decision reached under such rules.
12. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall, nevertheless, continue in full force without being impaired or invalidated in any way.
13. **Headings.** Headings at the beginning of each article are solely for the convenience of the parties and are not part of this Agreement.
14. **Notices and Requests.** Any notice given with reference to this Agreement shall be in writing and shall be deemed effective forty-eight (48) hours after having been deposited in the United States mail, postage prepaid, registered or certified, and addressed to the addressee at the principal office set forth herein. Any party may change its address for purposes of this Agreement by written notice given in accordance herewith.

RISK FACTORS YOU SHOULD CONSIDER PRIOR TO PURCHASE

THE PURCHASE OF APPLICATION PREPARATION SERVICES FROM ROMULUS FOR FILING OF MAS APPLICATIONS WITH THE FEDERAL COMMUNICATIONS COMMISSION INVOLVES A HIGH DEGREE OF RISK. DO NOT EXECUTE THIS AGREEMENT UNLESS YOU ARE PREPARED TO LOSE THE ENTIRE AMOUNT OF THE FEES EXPENDED FOR APPLICATION PREPARATION SERVICES. ROMULUS MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, THAT THE APPLICANT WILL BE AWARDED AN MAS CONSTRUCTION PERMIT, LICENSE OR ANY INTEREST THEREIN. THERE IS NO GUARANTEE THAT AN OPERATING MAS SYSTEM WILL RETURN ANY PROFITS TO ITS OWNERS. APPLICANT HAS READ AND UNDERSTANDS THE FOREGOING RISK FACTOR STATEMENT.

Applicant has submitted its payment of \$ 15,000 as payment in full for the services of Romulus as designated by Applicant on Exhibit A.

The parties have executed this Agreement this 11th day of December, 1991 in San Mateo, California.

Romulus Engineering (MAS) Inc:

By

Quentin L. Breen, President

Theodore D. Lesko
Applicant Name (Please Print)

Theodore D. Lesko
Applicant Signature

mas1.com

ENGINEERING SERVICES AGREEMENT

EXHIBIT A

Romulus Engineering (MAS) Inc. offers the following filing packages for Applicants who wish to use the services of Romulus to prepare and file MAS applications with the FCC.

- ☐ Mega East Package: 15 applications covering the Northeast population corridor extending from Boston to Washington, DC, including the New York metropolitan area for \$5,925. This price includes \$2,325 of FCC filing fees which will be forwarded to the FCC with the applications.
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- ☐ Combined Mega East and Mega West Package: 30 applications covering the Northeast and Northern and Southern population areas for \$10,650. This price includes \$4,650 of FCC filing fees which will be forwarded to the FCC with the applications.
- ☒ Nationwide MAS Package: Combined Mega East and Mega West package plus a 10% interest in a partnership filing 100 applications in Romulus selected markets located in the Midwest, Texas and Gulf Coast, Florida, the South, the West and the Northeast for \$15,000. This price includes \$6,200 of FCC filing fees which will be forwarded to the FCC with the applications.
- ☐ Additional 10% interests in the same partnership filing 100 applications in Romulus selected markets located in the Midwest, Texas & Gulf Coast, Florida, the South, the West and the Northeast for \$5,000 for each additional 10% partnership interest. This price includes \$1,550 of FCC filing fees for each additional 10% partnership interest which will be forwarded to the FCC with the applications.

mas1a.rom

ENGINEERING SERVICES AGREEMENT

EJ

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- C. Applicant desires to purchase Applications to provide MAS services in certain Metropolitan Statistical Areas ("Markets") in the United States (see Exhibit A).
- D. The purpose of this Agreement is to retain Romulus to engineer and prepare for filing with the FCC Applications for MAS Licenses for the Applicant.

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- b. Other applicants represented by Romulus or applications prepared by Romulus will be in competition with the Applicant in obtaining the Licenses applied for.
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 - d. Applicant may contribute certain rights under this Agreement to a general partnership Applicant is forming with other applicants.
 - e. Romulus has not rendered tax advice with respect to the deductibility or nondeductibility for Internal Revenue Service purposes of Applicant's costs to prepare and file the Applications.
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 - g. The Applicant has entered into this contract for the preparation of Applications with the sincere intent that, if successful in the License process, whether in whole or in part, the applicant intends to build and operate or have built and operated by a qualified entity, MAS systems in the markets for which licenses have been awarded.
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Applicant has submitted its payment of \$ 15,000 as payment in full for the services of Romulus as designated by Applicant on Exhibit A.

The parties have executed this Agreement this 11th day of December, 1991 in San Mateo, California.

Romulus Engineering (MAS) Inc.

By _____

Quentin L. Breen, President

Theodore D. Lesko
Applicant Name (Please Print)

Theodore D. Lesko
Applicant Signature

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- ☒ Nationwide MAS Package: Combined Mega East and Mega West package plus a 10% interest in a partnership filing 100 applications in Romulus selected markets located in the Midwest, Texas and Gulf Coast, Florida, the South, the West and the Northeast for \$15,000. This price includes \$6,200 of FCC filing fees which will be forwarded to the FCC with the applications.
- ☐ _____ Additional 10% interests in the same partnership filing 100 applications in Romulus selected markets located in the Midwest, Texas & Gulf Coast, Florida, the South, the West and the Northeast for \$5,000 for each additional 10% partnership interest. This price includes \$1,550 of FCC filing fees for each additional 10% partnership interest which will be forwarded to the FCC with the applications.

mas1a.rom

DATA LINK PARTNERSHIP AGREEMENT

This Data Link Partnership Agreement ("Agreement") is entered into by and among the parties named in Exhibit B ("Parties" or "Partners") who together wish to form a general partnership to apply for, and operate when granted, licenses to operate Multiple Address Systems Service ("MAS Service") in one hundred (100) designated major markets.

WHEREAS, each Party has entered into an Engineering Services Agreement ("Service Agreement") for the preparation of 100 applications ("Applications") for filing with the Federal Communications Commission ("FCC") for authorization ("Authorizations") to build and operate MAS Service ("System(s)") in designated metropolitan areas ("Market(s)"), and;

WHEREAS, the Parties wish to establish a general partnership ("Partnership") and to define each Party's rights and obligations with respect to any Authorization awarded to the Partnership by the FCC; and

WHEREAS, the Parties wish to contribute their respective Service Agreements as capital contributions to the Partnership to enable the Partnership to apply for the Authorizations and to operate the Systems;

NOW THEREFORE, in consideration of the foregoing premises, the Parties agree to form a general partnership for the purpose of making application for, constructing and operating, as awarded, 100 Systems, and the Parties further agree as follows:

I. Organization

1.1. Governing Agreement. The Partnership is a general partnership and shall be governed by the terms and conditions set forth herein.

1.2. Name and Place of Business. The name of the Partnership shall be as set forth in Exhibit C. The name may be changed from time to time by the Executive Committee of the Partnership ("Executive Committee"). The business address of the Partnership shall be as set forth in Exhibit D or any other place authorized by the Executive Committee.

1.3. Purpose. The purpose and scope of the Partnership is to make 100 applications for, and to construct and to operate the System(s) for as many Market(s) as are obtained by the Partnership ("Partnership Business"). The Markets are listed in Exhibit A. The Partnership may take any and all action necessary, incidental, or convenient to carry out the Partnership Business, including but not limited to: leasing, purchasing, and improving property and equipment for the System; borrowing and raising money; executing documents; selling service on the System to wholesale and retail customers; selling, leasing, installing and maintaining customer units used on the System; and entering into contracts with other paging operators.

1.4. Term. The term of the Partnership shall commence upon the signature of the last Partner to execute this Agreement ("Effective Date"). The term shall continue until the ninety-ninth anniversary of the Effective Date, or until earlier termination as provided herein. Each term may be extended at its expiration date for a similar term upon approval of the Partners.

2.6. Partnership Financing. To the extent feasible and otherwise consistent with sound business and financial practices, the construction and operation of the Partnership's systems shall be financed through borrowed funds. Each loan agreement shall be without recourse to the liability to the partners if possible and if not possible, each partner shall be responsible for that percentage of the indebtedness equal to the Partner's Ownership Interest. The Partnership may form a wholly owned subsidiary corporation ("Corporation") to hold the Authorizations and enter into financing agreements using the stock of the Corporation to secure such financing.

III. Capital Accounts and Allocations

3.1. Title to Property. The Partnership shall hold sole and exclusive title to the capital of the Partnership and to all Applications, Authorizations, equipment and other property whether real, personal or intangible, acquired by the Partnership. No Partner shall have any right, in law or equity, to request the partition of any asset or property of the Partnership, or to demand property other than cash upon any distribution by the Partnership.

3.2. Capital Accounts. A separate capital account ("Capital Account") shall be maintained for each Partner on the books of the Partnership in accordance with generally accepted accounting principles. The Capital Account of each Partner shall (i) be credited with the \$5000 for each 10% partnership interest paid by that Partner pursuant to the Services Agreement with the Partner's cash capital contributions to the Partnership and with the net income and gain, if any, of the Partnership allocated to such Partner and (ii) be charged with the net losses, if any, of the Partnership allocated to such Partner. No amount paid to the Partnership as interest or penalty by any Delinquent Partner may be credited to the Capital Account of any Partner, including that of the Delinquent Partner. No Partner shall be entitled to interest on its Capital Account. For purposes of this Agreement, Partnership net income, loss and gain shall be determined by the Partnership's accountants in accordance with generally accepted accounting principles.

3.3. Distributions. Distributions of net income and other Partnership proceeds to the Partners shall be made quarterly in accordance with their Ownership Interests at the time of distribution. However, the amount available, if any, for each such distribution shall be determined by the Executive Committee. Distributions of net income shall not exceed such quarter year's net income, less the amount determined by the Executive Committee to be reasonably required for non-expense items in the Partnership's budget, such as payments of debt, principal due or past due, capital investment needs, and working capital. No Partner shall be required to make a capital contribution to provide the funds necessary to make a distribution, nor shall the Partnership be required to borrow money for such purpose.

3.4. Tax Allocations. Taxable income, gain or loss, and items of tax credit of the Partnership for each taxable year shall be determined by the Partnership's accountants in accordance with applicable federal income tax laws, rules, and regulations and shall be allocated to the Partners in proportion to their Ownership Interests. Income of the Partnership in any taxable year which is exempt from federal income taxation shall be allocated in proportion to the allocation of taxable income in the year.

IV. Management

and all Partners' Meetings. The Executive Committee may delegate responsibilities and authority to the Chairperson, the System's General Manager, or other Partnership employees to the extent it considers reasonable. The System's General Manager may be delegated the day-to-day responsibility for conducting the Partnership Business.

4.5. Meeting Notices. Written notice of each Partners' Meeting and each Executive Committee meeting shall be given by the Chairperson of the Executive Committee to each Partner and Executive Committee member, respectively. The notice shall state the place, date, hour and purpose of the meeting. Notice of any meeting shall be given not less than five (5) nor more than thirty (30) days before the date of the meeting, unless otherwise waived in writing by all of the Partners. When a meeting is adjourned to reconvene at another time or place, it shall not be necessary to give notice of the reconvened meeting, if the time and place of the reconvened meeting are announced at the adjourned meeting.

4.6. Minutes. Minutes reflecting the actions taken at meeting of the Partnership and Executive Committee shall be kept. Copies of the minutes shall be maintained at the office of the Partnership and shall be promptly transmitted to a Partner or its representative upon written request.

4.7. Arrangements with Partners. The Partnership may enter into reasonable agreements with a Partner or affiliate of a Partner for the performance of services or the acquisition of the equipment or other property. However, each such agreement shall be on terms no less favorable to the Partnership than could readily be obtained if it was made with a person or entity who is not a Partner or affiliate of a Partner.

4.8. Indemnification. (a) The Partnership, except to the extent prohibited by then applicable law, shall indemnify and hold harmless each member of the Executive Committee who is a party to, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceeding, whether or not by or in the right of the Partnership, and whether civil, criminal, administrative, investigative or otherwise (any such action, suit or proceeding being hereinafter in this Section referred to as a "proceeding"), by reason of the fact that such person is or was a member of the Executive Committee (hereinafter "Indemnifiable Party"). Where required by law, the indemnification herein provided for shall be made only as authorized in the specific case upon a determination, in the manner provided by law, that the indemnification of the Indemnifiable Party is proper in the circumstances. The Partnership shall advance to Indemnifiable Parties expenses incurred in defending any proceeding prior to the final disposition thereof, except to the extent prohibited by then applicable law. This provision shall create a right of indemnification for each Indemnifiable Party any have, whether by law or under any agreement, insurance policy, vote of the Partners, or otherwise. The Partnership also shall have authority to purchase and maintain insurance on behalf of any Indemnifiable Party in such capacity or arising out of the Indemnifiable Party's status as such, whether or not the Partnership would be allowed by then applicable law to indemnify the Indemnifiable Party against such liability; (b) notwithstanding anything to the contrary, neither a member of the Executive Committee nor any other partner shall be indemnified or defended against claims that her or she has caused harm to the Partnership through gross negligence or willful misconduct.

4.9. No Partner Authority. No Partner shall take any part in the conduct or control of the Partnerships' business nor have any right or authority to act for or on behalf of the

assignment of the controlling interest; provided, that those Partners who sell their Ownership Interests shall assume the obligation to pay any broker(s)'s or finder's fees which shall be calculated by multiplying the total fee by that Partner's Ownership Interest as a percentage of the total Ownership Interest in the Partnership being acquired.

6.3. Notice of Assignment. A Partner who agrees or is required by operation of a law or decision by a court of competent jurisdiction to sell, assign or exchange all or part of its Ownership Interest shall notify the Executive Committee and Counsel to the Partnership at least ten (10) days in advance of the consummation of the sale, assignment, or exchange (collectively "Assignment"). The notice shall set forth the name, address, citizenship, and other information necessary to establish the legal qualifications of the Assignee to hold the interest to be assigned. This notice is for information purposes only, and shall not constitute the offering of any right of first refusal to purchase the interest.

6.4. Approvals and Documentation. If the prior consent of the FCC, any state regulatory agency, or other governmental authority is required for the Assignment, such consent shall be obtained by final order prior to consummation of the Assignment and admittance of the Assignee as a Partner. The Assignee shall execute and acknowledge all instruments and applications, in form and substance satisfactory to counsel for the Partnership, which are necessary or desirable to obtain such consent, to effectuate the Assignment, to admit the Assignee as a Partner, the Assignee shall reimburse the Partnership for all reasonable expenses, including attorney's fees, incurred by the Partnership in connection with the Assignment.

6.5. Preservation of Authorization. No Partner may assign all or part of its Ownership Interest to any other person or entity unless the Assignment, in the opinion of the Partnership's counsel, will not disqualify the Partnership from receiving or holding the Authorization.

6.6. Involuntary Assignment. Upon the death, bankruptcy, insolvency or incompetency of a Partner, the legal representative, guardian, receiver, creditor's committee or other successor in interest of the Partner, as the case may be, shall notify the Executive Committee in writing of such event and, subject to Section 6.4 and 6.5 above, shall be assigned the Partner's Ownership Interest and admitted as a Partner.

6.7. Encumbrance of Ownership Interest. No Partner shall pledge, hypothecate, grant a security interest in, or otherwise encumber its Ownership Interest in the Partnership, unless (i) the Partner gives not less than fifteen (15) days prior written notice to the Executive Committee of the creation of the encumbrance; (ii) the encumbrance attaches solely to the subject Ownership Interest, and does not attach to any real, personal or intangible property, equipment or other asset of the Partnership; (iii) the secured party is obligated to comply with Section 6.3, 6.4, 6.5, and 6.6 above in the event it attempts to enforce the encumbrance. Notwithstanding any other provision of this Partnership Agreement, no Partner may encumber its Ownership Interest at any time that the Partnership, by its Executive Committee, determines that such encumbrance may adversely affect any Partnership application or authorization made to or issued by the FCC.

VII. Representations and Warranties.

9.2. Right to Continue. If the Partnership is dissolved pursuant to Section 9.1 (ii) above, the Partnership shall continue the Partnership Business in order to ensure uninterrupted service to the public until such time as a successor entity has been established to operate the System.

9.3. Winding Up. In the event of the dissolution of the Partnership for any reason, unless the Partnership is continue pursuant to Section 9.2 above, the Partnership shall be liquidated and its affairs wound up by the Executive committee in an orderly and proper manner. The Partners shall continue to share all items of income, gain, loss, deduction or credit for tax purposes, and all profits and losses for accounting purposes during the period of liquidation in the same manner as before the dissolution. In order to obtain full market value from the sale of Partnership assets, the Executive Committee shall have the full right and discretion to determine the time, manner and terms of each sale of Partnership property pursuant to the liquidation.

9.4. Distribution Upon Liquidation. After paying or providing for the payment of all debts and liabilities of the Partnership and all expenses of liquidation, and after reserving funds reasonably sufficient to cover contingent or unforeseen liabilities or obligations of the Partnership the proceeds of the liquidation and any other assets of the Partnership shall be distributed to the Partners in accordance with their Ownership Interests at the time of distribution.

X. Miscellaneous

10.1. Mutual Cooperation. Each Party shall, in good faith, cooperate with each other Party, the Partnership, and the Executive Committee in promptly undertaking all actions, executing all documents, and filing all materials with the FCC, any other governmental body, any lender, vendor, or financial institution as may reasonably be necessary or desirable to fulfill each of the Party's obligations under this Agreement.

10.2. Other Business. Nothing contained in this Agreement shall restrict any Partner or affiliate of a Partner from engaging in any business outside and independent from the Partnership, except that no Partner or affiliate of Partner shall be a sales agent or reseller of the paging services in a Market.

10.3. Binding Effect. Except as otherwise proved herein, this Agreement shall be binding upon and inure to the benefit of the Parties, their legal representatives, heirs, administrators, executors, successors, and permitted assign.

10.4. No Agency. The Parties understand and agree that neither this agreement nor the Partnership itself grants or creates in any Partner or the Partnership any power of agency to bind or obligate the Partners, except as expressly set forth to this Agreement.

10.5. Confidential Information. Under no circumstances shall any Partner utilize or disclose in any manner which is in any way adverse to the interests of the Partnership or any Partner any confidential information, including engineering, technical, managerial and marketing information, whether or not patentable or copyrightable, disclosed by a Partner to the Partnership or to the other Partners in connection with Partnership matters or created by the Partnership itself or by the Partners in connection with Partnership matters.

shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as they may exist at the time that any dispute shall arise, and the award of any arbitration shall be final, conclusive and binding on the parties hereto and enforceable in any court having jurisdiction thereof.

(c) The parties to the arbitration shall each select an arbitrator within 15 days of the receipt by one of them of written notice from the other notifying of an intent to apply this section to a dispute. Within 15 days after the selection of the two arbitrators, the two selected shall select a third arbitrator who shall independently receive the dispute between the parties in accordance with the terms and conditions of this agreement. The arbitrators shall be individuals or firms with expertise in paging systems construction and operation, as well as in the subject matter of the dispute.

(d) Initially, each party shall pay the costs associated with its respective arbitrator and the costs of presenting its case, and the parties will divide equally the costs associated with the sue of the third arbitrator. But upon receipt of a ruling through the arbitration process, the prevailing party in the dispute shall be reimbursed by the non-prevailing party for all of its costs associated with the arbitration procedures, including but not limited to the cost of preparing and presenting its case.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the respective dates and in the respective locations set forth below.

1/7/92
Date of Execution


Signature of Partner

Gulford, Ct.
Place of Execution

Robert W. Geist
Name of Partner (Print)

shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as they may exist at the time that any dispute shall arise, and the award of any arbitration shall be final, conclusive and binding on the parties hereto and enforceable in any court having jurisdiction thereof.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the respective dates and in the respective locations set forth below.

11/29/81
Date of Execution

Harvey Babbitt
Signature of Partner

Place of Execution

HARVEY BABBITT
Name of Partner (Print)

shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as they may exist at the time that any dispute shall arise, and the award of any arbitration shall be final, conclusive and binding on the parties hereto and enforceable in any court having jurisdiction thereof.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the respective dates and in the respective locations set forth below.

12/13/91
Date of Execution

Orchard Hill Memorial Park Inc
David C Cooke - Pres
Signature of Partner

WARREN N.J
Place of Execution

Orchard Hill Memorial Park, Inc.
Name of Partner (Print)

shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as they may exist at the time that any dispute shall arise, and the award of any arbitration shall be final, conclusive and binding on the parties hereto and enforceable in any court having jurisdiction thereof.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the respective dates and in the respective locations set forth below.

Nov. 16, 1991
Date of Execution

Harold G. Green
Signature of Partner

Atlanta, Ga. 30307
Place of Execution

Harold G. Green
Name of Partner (Print)

shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as they may exist at the time that any dispute shall arise, and the award of any arbitration shall be final, conclusive and binding on the parties hereto and enforceable in any court having jurisdiction thereof.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the respective dates and in the respective locations set forth below.

December 6, 1991
Date of Execution

Theodore D. Lesko
Signature of Partner

Rockelle Park NJ
Place of Execution

Theodore D. Lesko
Name of Partner (Print)

shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as they may exist at the time that any dispute shall arise, and the award of any arbitration shall be final, conclusive and binding on the parties hereto and enforceable in any court having jurisdiction thereof.

(c) The parties to the arbitration shall each select an arbitrator within 15 days of the receipt by one of them of written notice from the other notifying of an intent to apply this section to a dispute. Within 15 days after the selection of the two arbitrators, the two selected shall select a third arbitrator who shall independently receive the dispute between the parties in accordance with the terms and conditions of this agreement. The arbitrators shall be individuals or firms with expertise in paging systems construction and operation, as well as in the subject matter of the dispute.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the respective dates and in the respective locations set forth below.

12/10/91
Date of Execution


Signature of Partner

SUSSEX, N.J.
Place of Execution

JOSEPH A. MALONE
Name of Partner (Print)


shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as they may exist at the time that any dispute shall arise, and the award of any arbitration shall be final, conclusive and binding on the parties hereto and enforceable in any court having jurisdiction thereof.

(c) The parties to the arbitration shall each select an arbitrator within 15 days of the receipt by one of them of written notice from the other notifying of an intent to apply this section to a dispute. Within 15 days after the selection of the two arbitrators, the two selected shall select a third arbitrator who shall independently receive the dispute between the parties in accordance with the terms and conditions of this agreement. The arbitrators shall be individuals or firms with expertise in paging systems construction and operation, as well as in the subject matter of the dispute.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the respective dates and in the respective locations set forth below.

11/26/91
Date of Execution


Signature of Partner

New York NY
Place of Execution

Rick Martin
Name of Partner (Print)


initial